

CITY OF SAN CLEMENTE

City Council Minutes

Special and Regular City Council Meeting – November 7, 2017

These minutes reflect the order in which items appeared on the meeting agenda and do not necessarily reflect the order in which items were actually considered.

A Special Meeting of the San Clemente City Council was called to order on November 7, 2017 at 4:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Ward.

PRESENT BROWN, DONCHAK, MAYOR WARD

ABSENT HAMM, SWARTZ

STAFF PRESENT James Makshanoff, City Manager; Scott Smith, City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk

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CLOSED SESSION

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to recess to Closed Session to discuss the following:

A. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of Cases: 6

Case Name: Villa San Clemente, LLC v. City of San Clemente
Case Number: U.S. District Court Case No. 8:17-cv-1484

Case Name: Villa San Clemente v. City of San Clemente
Case Number: USDC 8:17-cv-1484

Case Name: MemorialCare Services, et al. v. City of San Clemente
Case Number: OCSC 30-2016-00845211 CU-WM-CJC

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor Agency and County of Orange
Case Number: 30-2017-00934703-CU-PT-CXC

Closed Session items continued on next page

Case Name: Jim Bieber v. City of San Clemente, et al.
Case Number: OCSC 30-2017-00906718

Case Name: Emergency Shelter Coalition v. City of San Clemente
Case Number: OCSC 30-201400758880

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Property: 1 Acre Vacant Land Parcel North of the Northeast Corner of Avenida Fabricante and Calle Extremo, APN # 690-661-09
Agency Negotiator: Erik Sund, Assistant City Manager
Negotiating Parties: City of San Clemente and Glaukos Corporation
Under Negotiation: Price and Terms of Payment for Purchase

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Property: 2.8 acre San Mateo site north of Calle Bahia, adjacent to the Golf Course site
APN(s): 060-010-37, 060-010-38
Agency negotiator: Erik Sund, Assistant City Manager
Negotiating party: San Diego Gas and Electric Company
Under Negotiation: Price and Terms of Payment

REGULAR CITY COUNCIL MEETING CONVENED

The Regular City Council Meeting of November 7, 2017 convened at 6:00 p.m., with all members present, except Councilmembers Hamm and Swartz.

INVOCATION

Mrs. Robin Margraf, Our Lady of Fatima Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Donchak led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Toll Road Update

Mayor Ward announced that the November 2017 and January 2018 Transportation Corridor Agencies (TCA) meetings have been cancelled.

B. Caltrans Presentation Concerning El Camino Real Widening Project

Ahmed Abou-Abdou, of Caltrans, narrated a PowerPoint presentation concerning the El Camino Real widening project and responded to Council inquiries. A hard copy of Mr. Abou-Abdou's PowerPoint, entitled "El Camino Real Curve Correction", is on file with the City Clerk.

Josh Hershman, San Clemente, expressed concern with the impact of new road construction and road repairs on a community, noting that the Orange County canyon fire was started from an ember from a Caltrans vehicle; opined that toll road fees should be prominently posted and voiced concern that maintenance and law enforcement responsibilities for toll roads are transferred to Caltrans.

C. Winter Recreation Magazine and New Recreation Software

Samantha Thomas, Recreation Manager, narrated a PowerPoint presentation regarding the Winter Recreation Magazine and new Recreation Software. A hard copy of Ms. Thomas' presentation entitled "Recreation Software & San Clemente Magazine Winter 2017/18" is on file with the City Clerk.

D. Wellness and Prevention Coalition to Prevent Youth Substance Use - Grant Award by White House Drug Policy Office

Susan Parmelee, Executive Director of the Wellness and Prevention Center, narrated a PowerPoint presentation concerning the White House Drug Policy Office Award of \$125,000 Per Year for Five Years to the Wellness and Prevention Coalition to Prevent Youth Substance Use in San Clemente. A hard copy of Ms. Parmelee's PowerPoint, entitled "Drug Free Communities Coalition" is on file with the City Clerk.

Lauren Gallegos, Community Prevention Director of the Wellness and Prevention Center, explained her passion for preventing youth substance usage.

E. Planning Commission Update

Chairman Don Brown provided an update on the Planning Commission's activities, focusing on recent accomplishments and future projects. A hard copy of Mr. Brown's presentation is on file with the City Clerk.

2. ORAL COMMUNICATIONS (PART 1)**Lifetime Fitness Project**

Russell Sedat, San Clemente, voiced concern with the scope of the Lifetime Fitness project, that is proposed to be located at the former Rancho San Clemente Tennis and Fitness Club site; expressed concern that Lifetime Fitness plans to operate between 5:00 a.m. and 11:00 p.m. and will negatively impact Rancho San Clemente in terms of traffic and noise.

Casa Romantica Parking Lot

Ruth DeNault, President of the Casa Romantica Cultural Center and Gardens, reviewed the history of the Casa Romantica and summarized its programs and events; voiced concern that the parking lot at the Casa is unsightly and unsafe and requested that the City rehabilitate the lot.

Council noted that a portion of the Casa Romantica's parking lot has already been resurfaced with asphalt that has been colored to be historically correct, but that the remaining decomposed granite portion of the lot has not been rehabilitated; directed Staff to agendaize for a future Council meeting the possibility of completing the Casa Romantica parking lot rehabilitation. Staff is to report on the following: 1) the process necessary to rehabilitate the parking lot, financial implications, timetable for completion, and whether decomposed granite is the best material for the parking lot, 2) the financial responsibilities of the City and Casa Romantica as contained in the agreement between the two parties, and 3) the manner by which the \$350,000 that was budgeted in the 2012 Long Term Financial Plan for parking lot improvements at the Casa was utilized.

Short Term Lodging Units (Boundaries)

Clayton Robinson, San Clemente, urged that Council modify the boundaries within the North Beach area in which short term lodging units (STLUs) are permitted; opined that Buena Vista should be added to the focus area due to his position that short term lodging units on Buena Vista would be compatible with the area, while generating revenue for the City and patronage for area businesses.

3. MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to waive reading in full of all Resolutions and Ordinances.

4. CONSIDERATION OF AGENDIZING ITEMS REQUIRING IMMEDIATE ACTION

None.

5. CLOSED SESSION REPORT - CITY ATTORNEY

City Attorney Smith advised that no reportable actions were taken during this evening's Closed Session; reported that because of a prior representation of the plaintiff in the Villa San Clemente case, he recused himself from participation in that discussion; stated that the special counsel that substituted for him during the Villa San Clemente portion of the Closed Session indicated that no reportable actions were taken with regard to that case.

6. CONSENT CALENDAR

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to approve the Consent Calendar, with the removal of Item 6-B(3).

A. City Council Minutes

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to approve the City Council Adjourned Regular Meeting Minutes of October 10, 2017 and Special and Regular Meeting Minutes of October 17, 2017.

B. MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to receive and file:

- (1) Beaches, Parks and Recreation Commission Regular Meeting Minutes of September 12, 2017.
- (2) Golf Course Committee Regular Meeting Minutes of September 7, 2017.

C. **Warrant Register**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to approve:

Wire Transfers Nos. 1713 through 1716 and Warrant Nos. 545161 through 545323, paid on 10/13/17 in the amount of\$845,701.01

Wire Transfers Nos. 1717 through 1720 and Warrant Nos. 545324 through 545541, paid on 10/20/17.....\$3,182,335.03

Wire Transfers Nos. 1721 through 1724 and Warrant Nos. 545542 through 545667, paid on 10/27/17.....\$2,274,915.91

TOTAL WARRANT REGISTER.....\$6,302,951.95

Payroll Register

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to approve:

Warrant Nos. 629 through 631 and Automatic Deposit Advises 43578 through 43873, for the period 9/25/17 through 10/8/17, paid on 10/13/17.....\$ 434,441.39

Warrant Nos. 632 through 635, Automatic Deposit Advises 43874 through 44171, for the period 10/9/17 through 10/22/17, paid on 10/27/17.....\$ 438,385.83

TOTAL PAYROLL REGISTER.....\$ 872,827.22

D. **Contract Amendment – Marine Safety Building Structural Condition Assessment**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to approve, and authorize the Mayor to execute, Amendment No. 2 to Contract AC-706, by and between the City of San Clemente and TranSystems Inc., providing for ADA design services for the rehabilitation of the Marine Safety Building. This Amendment increases the contract amount from \$66,400 to \$86,100 (an increase of \$19,700), expands the scope of services of the contract, and extends the contract term to June 30, 2019.

E. **Contract Award – Fire Station No. 59 Diesel Fuel Tank**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to:

1. Approve the plans and specifications for the Fire Station No. 59 Diesel Fuel Tank, Project No. 16812.
2. Approve a supplemental appropriation in the amount of \$166,786 from the Public Facilities Construction Fund – Reserve for Public Safety Construction to Account 030-818-45300-000-16812.
3. Approve, and authorize the Mayor to execute, Contract C17-46, by and between the City of San Clemente and Tafoya & Associates, providing for construction of the Fire Station No. 59 Diesel Fuel Tank, Project No. 16812, in the amount of \$224,351.

F. **Contract Amendment - Laboratory Services**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to:

1. Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C15-53, by and between the City of San Clemente and Sierra Analytical. This Amendment increases the contract amount from \$435,000 to \$556,000 (an increase of \$121,000).
2. Approve a supplemental appropriation in the amounts of \$68,650, \$23,444 and \$28,906 to Accounts 052-462-43890, 052-465-43890 and 054-472-43890, respectively.

G. Contract Award - Biosolids Management Services

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to:

1. Approve, and authorize the Mayor to execute, Contract C17-47, by and between the South Orange County Wastewater Authority (of which the City of San Clemente is a member) and Nursery Products, LLC, providing for biosolids management services.
2. Authorize the City Manager to approve extensions to the contract for up to two additional five-year periods.

H. Equipment Purchase - Water Meters for FY 2018

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to approve the purchase of water meters from Ferguson Waterworks and Metron-Farnier for Fiscal Year 2018 for an amount not to exceed \$125,000, based on the fixed price quotes contained in Attachment 1 to the Administrative Report, dated November 7, 2017, which is on file with the City Clerk.

I. Emergency Repair and Contract Award - Santa Maria Pump Station Pump Can Replacement

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to:

1. Make a finding that an emergency exists to maintain water service and fire flows during rehabilitation of Reservoir Number 5A and that the situation requires immediate action to prevent or mitigate impairment to property and public services, that might otherwise occur if required to incur delays attributed to the typical engineering design and public competitive bidding process.
2. Declare that the public interest and necessity demand the immediate expenditure of public funds to safeguard public health.
3. Approve, and authorize the Mayor to execute, Contract C17-48, by and between the City of San Clemente and NEWest Construction Company, Inc., providing for the Santa Maria Pump Station Pump Can Replacement project, in the amount of \$31,900.

J. Parking Agreement - Mizokami Advanced Circulatory Sports Therapy

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to approve, and authorize the Mayor to execute, Contract C17-49, a Parking Agreement between the City of San Clemente and Mizokami Advanced Circulatory Sports Therapy.

K. Authorization to File Tax Liens to Collect Delinquent Transient Occupancy Tax

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to adopt Resolution No. 17-36 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ACKNOWLEDGING AUTHORITY OF THE FINANCE AND ADMINISTRATIVE SERVICES DIRECTOR TO IMPOSE TAX LIENS TO COLLECT DELINQUENT TRANSIENT OCCUPANCY TAX.

L. 22nd Annual California Joint Powers Insurance Authority Risk Management Educational Forum

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to receive and file the Administrative Report, dated November 7, 2017, which is on file with the City Clerk.

M. Designation of Legal Fees

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to:

1. Approve the estimated legal costs for the three Villa San Clemente cases as identified in the Administrative Report, dated November 7, 2017, which is on file with the City Clerk.
2. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C17-50, by and between the City of San Clemente and Jenkins & Hogin, providing for City Attorney services.
3. Approve a transfer of \$300,000 from the General Fund to the General Liability Fund.

Action continued on next page

4. Approve a supplemental appropriation from the Fund Balance in the General Liability Fund in the amount of \$300,000 to Other Legal Services, Account 068-816-43640-000-00000.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

B(3). Planning Commission Adjourned Regular Meeting Minutes of October 18, 2017

Alvarez Remodel Project - 230 Avenida Granada

Zhen Wu, San Clemente, stated that he is a resident of the City and also serves the City as a Planning Commissioner; narrated a PowerPoint presentation concerning the Alvarez Remodel project, located at 230 Avenida Granada, that was considered by the Planning Commission at its meeting of October 18, 2017; opined that the Planning Commission erred in approving the project because the roof deck exceeds the plate line height limit by 30 inches; urged Council to call up the project for review. A hard copy of Mr. Wu's PowerPoint is on file with the City Clerk.

In response to Council inquiry, Community Development Director Gallardo-Daly explained Staff's interpretation that the plate height limit does not apply to design features, such as roof decks, and confirmed that the project complies with both the top-of-roof height limit as well as the elevator tower height limit; explained that the project is two stories.

Jorge Alvarez, Applicant, responded to Council comments relative to the height of the structure, noting that the project is not three stories; stated the project has been in the planning stages for five years and complies with City requirements.

Council determined to not call up the Alvarez Remodel project for review.

MOTION BY MAYOR WARD, SECOND BY MAYOR PRO TEM BROWN, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to receive and file the Adjourned Regular Planning Commission meeting minutes of October 18, 2017, with the following notations:

1. Page 4 of the minutes, relating to the Mizokami Sports Therapy project, incorrectly states that Brad Malamud addressed the Planning Commission as attorney for the appellant, rather than on his own behalf. This error will be brought to the Planning Commission's attention when it receives the minutes for approval.

Action continued on next page

2. Requested that the Planning Commission interpret Code requirements relating to height calculations, particularly as they relate to roof decks and parapet walls.

7. **PUBLIC HEARINGS**

A. **Water Rates**

Public Hearing to consider amending the Code of the City of San Clemente regarding proposed rate modifications for the Water utility.

Assistant City Manager Sund reviewed the contents of the Administrative Report.

Mayor Ward opened the Public Hearing.

Marilyn Mogal, San Clemente, voiced concern that the proposed water rate increase will cause her rent to increase; noted that she does not have a dishwasher, washing machine or yard to irrigate; requested that Council consider the impact that the rate increase will have on senior citizens who live on Social Security.

Kathlene Bruen, representing the Rancho San Clemente Community Association (RSCCA), read a communication from Vonne Barnes, President of the RSCCA, that asserted that the proposed water rates are unfair and will cause the Association's monthly water bill to increase from \$13,815 to \$16,095; recommended that Council implement a 5th customer class entitled "Homeowner Association".

Bill Rhodes, speaking on behalf of himself as a San Clemente resident as well as on behalf of the Pacific Shores Homeowners Association, reviewed the contents of his protest letter, dated November 7, 2017, which is on file with the City Clerk; voiced concern that the proposed rate structure will exceed the revenue targets of the Carollo Engineers study and will penalize residents for conserving water.

Charles Seward, San Clemente, protested the proposed water rates, asserting that employees of the water utility receive excessive salaries; spoke in opposition to decoupling.

Mark Klein, San Clemente property owner and President of the Del Cabo Homeowners Association, spoke in opposition to the proposed water rate increase because of the magnitude of the increase; stated that cost cuts weren't considered and questioned whether the City renegotiated water rates with its supplier.

Pam Wood, San Clemente, voiced concern that expenses were not addressed in the City's Proposition 218 notice; stated that the proposed rates are based on a 5-year continuation of the drought and questioned whether rates would be lowered if rain increases and water becomes more plentiful.

Gene Stone, Residents Organized for a Safe Environment, opined that the proposed water rates are exorbitant and suggested that residents are being penalized for conserving water; stated that water is a human right and should be available at a fair price.

There being no others desiring to speak to this issue, the Public Hearing was closed.

City Clerk Baade announced that the City received 21 written protests as well as protest letters from persons purporting to represent the Reserve Maintenance Corporation (24 accounts) and Rancho San Clemente Master Association (20 accounts); noted that these protests do not constitute a majority protest of the City's 17,672 active water customers.

During the ensuing discussion, Assistant City Manager Sund, Utilities Director Rebensdorf, and Pierce Rossum of Carollo Engineers, responded to Council inquiries.

Council requested that Frequently Asked Questions (FAQs) concerning the water issue be posted to the City's website.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to introduce Ordinance No. 1647 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 13.04.220, SUBSECTIONS (A) THROUGH (D), AND ADDING SUBSECTION (E) OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO WATER RATES.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

None.

10. **ORAL COMMUNICATIONS (PART 2)**

None.

11. REPORTS**A. Commissions and Committees**

None.

B. City Manager

City Manager Makshanoff noted that the City will host a town hall meeting for Shorecliffs residents on November 13, 2017 at 6:00 p.m. in the Community Center auditorium; explained that the meeting will include an overview of the Via Ballena storm drain project.

C. City Attorney

None.

D. Council Members**OCTA Transportation Issues/2028 Summer Olympics**

Councilmember Donchak reported that as a member of the OCTA Executive Committee, she attended a meeting last week with her counterparts in Los Angeles; noted that the meeting, which was hosted by Mayor Garcetti, focused on the 2028 Summer Olympics and transportation issues as they cross County lines; noted that three Olympic events will take place in Orange County.

Seismic Study Presentation (Dr. Neal Driscoll)

Mayor Pro Tem Brown reported that on November 28, 2017 at 6:00 p.m. in the Council Chambers, Dr. Neal Driscoll (who completed the seismic studies for Southern California Edison), will explain the results of the studies and the implications for San Clemente.

Free Flu Shot Clinic

Mayor Ward advised that the Mission Heritage Medical Group will offer free flu shots on November 11, 2017 at 831 Via Suerte.

Veterans Day Commemoration

Mayor Ward reported that Veterans Day was recognized on November 4, 2017 at Parque Semper Fi, noting that the City's adopted Marine Unit (2nd Battalion, 4th Marines) was honored.

Red Ribbon/Homecoming Parades

Mayor Ward reported on the successful Red Ribbon Parade and San Clemente High School Homecoming Parade that took place last week.

Pine Tree/Eucalyptus Removal Along I-5

In response to Council inquiry, City Manager Makshanoff provided an update on the possible removal/replacement of the pine and eucalyptus trees along the I-5, noting that Caltrans is willing to replace the trees with trees included in the City's tree palette at the City's cost (estimated to be \$70,000 to \$75,000).

Council will discuss this matter in conjunction with its consideration of the Long Term Financial Plan.

Orange County Canyon Fire Video

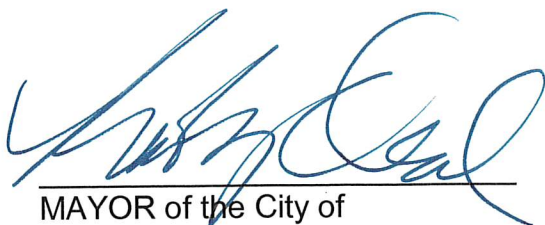
Mayor Pro Tem Brown presented a video concerning the recent Orange County Canyon fire, which was presented to the Orange County Fire Authority Board; advised that the Board voted to review the fire's circumstances and response.

12. RESOLUTIONS/ORDINANCES

None.

13. ADJOURNMENT

MOTION BY MAYOR WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBERS HAMM AND SWARTZ ABSENT), to adjourn at 8:35 p.m. The next Regular Council Meeting will be held on November 21, 2017 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 5:00 p.m. The Regular Business Meeting will take place at 6:00 p.m.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California